

REMARKS

At the outset, Applicants thank the Examiner for the thorough review and consideration of the pending application. The Office Action dated August 23, 2004 has been received and its contents carefully reviewed.

Claims 1-35 are currently pending, of which claims 4, 5, 7-14, 18, 19, 21-28, 33, and 34 are withdrawn from consideration. Reexamination and reconsideration of the pending claims is respectfully requested.

In the Office Action, the Examiner rejected claims 1-3, 6, 15-17, 20, 29-32, and 35 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of Yun et al. (U.S. Pat. No. 5,835,139, herein referred to as “Yun ‘139”); rejected claims 1-3, 6, 15-17, 20, 29-32, and 35 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-65 of Yun et al. (U.S. Pat. No. 5,926,237, herein referred to as “Yun ‘237”); rejected claims 1-3, 6, 15-17, 20, 29-32, and 35 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of Yun et al. (U.S. Pat. No. 6,373,537, herein referred to as “Yun ‘537”); and rejected claims 1-3, 6, 15-17, 20, 29-32, and 35 under 35 U.S.C. §103(a) as being unpatentable over Masanori (JP Patent Pub. No. 07-099394).

The rejection of claims 1-3, 6, 15-17, 20, 29-32, and 35 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of Yun ‘139 is respectfully traversed and reconsideration is respectfully requested.

As set forth in M.P.E.P. § 804(II)(B)(1)(a), a sufficient basis for an obviousness-type double patenting rejection is established only when the invention claimed in the application is an obvious variation of an invention claimed in a cited reference. Thus, any analysis supporting an obviousness-type double patenting rejection must parallel the guidelines for analysis of an obviousness rejection under 35 U.S.C. § 103(a) and, therefore, set forth reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim in issue is an obvious variation of the invention defined in a claim in the patent. See M.P.E.P. § 804(II)(B)(1). All determinations of obviousness under 35 U.S.C. § 103(a) require: (1) there be some

suggestion or motivation to modify a reference; (2) there be some reasonable expectation of success in modifying the reference; and (3) that all claimed elements be taught or suggested by the reference when modified. See M.P.E.P. § 2143.

Nevertheless, in rejecting claims 1, 15, 29, and 30 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of Yun '139, the Examiner stated that the claims were “not patentably distinct from each other because both comprise common and overlapping subject matter.” Applicants, however, respectfully disagree.

Merely asserting the existence of “common and overlapping subject matter” between the pending claims and claims 1-13 of Yun '139 fails to satisfy any of the aforementioned criteria necessary to establish a *prima facie* case of obviousness because: (1) the existence of “common and overlapping subject matter,” without some objective reason to modify Yun '139 to arrive at the claimed invention, is insufficient to establish a *prima facie* case of obviousness (see § 2143.01); (2) the existence of “common and overlapping subject matter,” without more, speaks nothing toward any reasonable expectation of success in the modification (see § 2143.02), and (3) the existence of “common and overlapping subject matter,” does not establish that each and every claim element is taught or suggested by Yun '139 as modified (see § 2143.03). Therefore, merely alleging the existence of “common and overlapping subject matter” between the pending claims and claims 1-13 of Yun '139 cannot establish that the pending claims are an obvious variation of those set forth in Yun '139.

In the “Response to Arguments” section of the present Office Action, the Examiner asserts that the rejection is proper because the claims of Yun '139 recite “common and overlapping subject matter as to the present claimed invention” and that “[t]he claimed invention comprises subject matter that is not patentably distinct from the patents (w/ the common assignee).” Applicants respectfully submit, however, that this response is simply a reiteration of the applied rejection and fails to provide an explanation as to why the arguments presented in the Reply under 37 C.F.R. § 1.111, and expounded upon above, are non-persuasive. See M.P.E.P. § 707.07(f). To reiterate, the existence of “common and overlapping subject matter” cannot be used as a basis with which to establish a *prima facie* case of obviousness. Absent any evidence

satisfying the three basic criteria outlined above and discussed at M.P.E.P. § 2143, Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case that claims 1, 15, 29, and 30 of the present application are obvious variants of claims 1-13 of Yun '139. Therefore, Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case that claims 2, 3, 6, 16, 17, 20, 31, 32, and 35, which variously depend from claims 1, 15, 29, and 30, are obvious variants of claims 1-13 of Yun '139.

The rejections of claims 1-3, 6, 15-17, 20, 29-32, and 35 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-65 of Yun '237 and as being unpatentable over claims 1-15 of Yun '537 are respectfully traversed and reconsideration is respectfully requested.

Similar arguments present above with respect to the obvious-type double patenting rejection of claims 1-3, 6, 15-17, 20, 29-32, and 35 in light of Yun '139 are also applicable to the obvious-type double patenting rejections of claims 1-3, 6, 15-17, 20, 29-32, and 35 in light of Yun '237 and Yun '537.

The rejection of claims 1-3, 6, 15-17, 20, 29-32, and 35 under 35 U.S.C. § 103(a) as being unpatentable over Masanori is respectfully traversed and reconsideration is respectfully requested.

As set forth at M.P.E.P. § 2143.03, the applied reference must teach or suggest every claim element to establish a *prima facie* case of obviousness.

Nevertheless, the Examiner apparently rejects claims 1, 15, 29, and 30 as obvious in view of Masanori because Masanori discloses "a liquid crystal panel 2 including a display area; first and second frames coupled to sides and edges of the liquid crystal panel; an outer casing disposed on the liquid crystal panel; the edges including a plurality of mounting holes, wherein the holes receives [sic] fastening screws" and wherein "the holes of the casing [are] aligned with the mounting holes."

Assuming *arguendo* that Masanori discloses what it is asserted to disclose, Masanori fails to teach or suggest every element as set forth in at least claims 1, 15, 29, and 30. For

example, Masanori fails to teach or suggest “a bracket between the first and second side panels of the first and second frames, respectively, the bracket having a projecting part configured to be fitted in the opening of the second side panel of the second frame, wherein the frame is secured to the side wall of the outer casing with a fastener coupled to the bracket through the outer casing,” as recited in claim 1; “a controller connected to the flat panel display for controlling the images; … and a bracket disposed between the side panels of the frame and the top case, the bracket having a projecting part configured to be fitted in the opening of the side panel of the top case, wherein the frame is secured to the side wall of the outer casing with a fastener coupled to the bracket through the outer casing,” as recited in claim 15; “bracket means for securing the top case means and the frame means to the outer casing, the bracket means being disposed between the side panels of the frame means and the top case means, the bracket means having a projecting part configured to be fitted in the opening of the side panel of the top case, wherein the frame means is secured to the side wall of the outer casing with a fastening means coupled to the bracket through the outer casing,” as recited in claim 29; and “forming a bracket between the first and second side panels of the first and second frames, respectively, the bracket having a projecting part configured to be fitted in the opening of the second side panel of the second frame, wherein the frame is secured to the side wall of the outer casing with a fastener coupled to the bracket through the outer casing,” as recited in claim 30. For at least the reasons set forth above, Applicants respectfully request withdrawal of the present rejection under 35 U.S.C. § 103(a).

As shown above, the Examiner has failed to establish a *prima facie* case of obviousness with respect to claims 1, 15, 29, and 30. Therefore, Applicants respectfully submit the Examiner has also failed to establish a *prima facie* case of obviousness with respect to claims 2, 3, 6, 16, 17, 20, 31, 32, and 35, which variously depend from claims 1, 15, 29, and 30.

Applicants believe the foregoing amendments place the application in condition for allowance and early, favorable action is respectfully solicited.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at (202) 496-7500 to

Application No.: 09/277,356
Reply dated February 8, 2005
Reply to Final Office Action dated August 23, 2004

Docket No.: 8733.084.00

discuss the steps necessary for placing the application in condition for allowance. All correspondence should continue to be sent to the below-listed address.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136, and any additional fees required under 37 C.F.R. §1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911. A duplicate copy of this sheet is enclosed.

Dated: February 8, 2005

Respectfully submitted,

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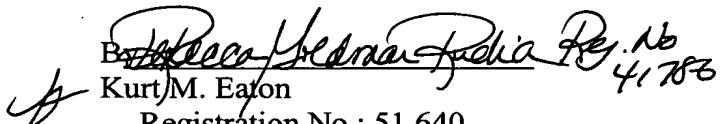
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